

CIVIL DOCKET  
UNITED STATES DISTRICT COURT

BARROW  
Jury demand date:

72-C-90

D. C. Form No. 106A Rev.

TITLE OF CASE		ATTORNEYS			
THE FIRST NATIONAL BANK & TRUST COMPANY OF TULSA, a national banking association,		For plaintiff:  Joel L. Wohlgemuth 1414 First National Building Tulsa, Oklahoma 74103 75			
VS.					
<del>NELSON AUCTION SERVICE, INC.,</del> <del>a corporation,</del> THE E.M.S. AGENCY, INC., formerly (6-26-74) NELSON AUCTION SERVICE, INC., a corporation NELSON INTERNATIONAL, INC. (6-26-74)		For defendant:  Jack E. Brady 3275 First Natl. Bank Bldg. Dallas, Texas 75202  R. James Unruh 585 613 National Bank of Tulsa Bldg., Tulsa, Okla. 74103 582-7236			
STATISTICAL RECORD	COSTS	DATE	NAME OR RECEIPT NO.	REC.	DISB.
J.S. 5 mailed 4-1-72	Clerk	3/15/ 3-16-72	C.D.No.41	15.00	15 00
J.S. 6 mailed 4-1-76	Marshal				
Basis of Action: money judgment on promissory note & punitive damages	Docket fee Witness fees				
Action arose at:	Depositions				

DATE	PROCEEDINGS	Date Order or Judgment Noted
3-15-72	Complaint, filed. Summons issued. rm	
3-27-72	U.S. Marshals Service, Return on Summons, filed. Served The Corp.Co. in Okla. City, Okla., on 3-17-72, with fees of \$4.00. v	
4-4-72	Deft's motion to dismiss, filed. hm	
5-5-72	Motion of the Plaintiff, to strike deft.'s motion to dismiss, with brief in support, filed. v	
6-27-72	Order overruling deft's motion to dismiss, filed. (AEB-J)hm (copies mailed)	
9-14-72	Application to Clerk for entry of default, filed. hm	
9-14-72	Entry of default by Clerk, filed. hm	
9-14-72	Affidavit of failure to plead or otherwise defend in support of application for entry of default, filed. hm	
10-19-72	Motion of the Plaintiff for Judgment by Default, filed. v -order to J. with brief as part of pldg.	
11-3-72	Deft's motion for leave to file answer and to set aside entry of default, filed. g <i>sent to Plaintiff</i>	
11-3-72	Affidavit of Jack E. Brady, filed. g <i>sent to Plaintiff</i>	
11-3-72	Memoranda of authorities in support of deft's motion for leave to file answer and to set aside entry of default, filed. g <i>sent to Plaintiff</i>	
11-3-72	Ordered by the Court that pltf. file brief in response to motion for leave to file answer, within 10 days. g	
11-10-72	Response to deft's motion for leave to file answer and to set aside entry of default and plaintiff's application for allowance of attorneys' fees, filed. g	
8-3-73	Order, filed, Overruling Deft's Mtn. for Leave to File Ans. and to set aside entry of Default by the Clk. and setting before the Ct. for Hearing on Mtn. for Default. (AEB-J)jj copies mailed	
8-6-73	Notice that this case is set for Hearing on Motion for Default on the 8-14-73 docket was mailed to parties this date. v -copy in file.	
8-14-73	Case called for Hearing on Motion for Default. Parties present & rep. Pltf. requests of Court that Nelson Auction Service, Inc., be known from this date as Nelson Auction Service International, and that Court enter default Judgment against Nelson Auction Service, Int'l, on the issue of liability. Court so grants, and Pltf. is to prepare the necessary order within 3 days. Court sets this case on the September 5, 1973, Docket at 10:00 A.M. for Hearing on Amount of Damages to be Assessed. (AEB-J)v -Notice of 9-5-73 hrg. mld. this date.	
8-24-73	Order, that name of deft. be corrected from Nelson Auction Service, Inc. to Nelson International, Inc.; that pltf. be granted jdgt. by default against deft. Nelson International Inc. on issue of deft's liability to pltf. for conversion of 1968 Auto-Car truck tractor, and that case be set for hearing on amt. of damages to be awarded pltf. at 10'oclock a.m. on 9-5-73, filed and entered. (AEB-j)jj copies mailed	
9-5-73	Case stricken from docket of this date and passed to 9-18-73 for hearing on amt of damages to be awarded pltf.(10:00 A.M.) (notice M.C.)h	
9-11-73	Deft's motion to vacate order, filed. hm	
9-11-73	Brief in support of motion to vacate order, filed. hm (cont.)	

DATE	PROCEEDINGS	Date Order or Judgment Noted
9-12-73	Request for Production of Documents under Rule 34, filed by Pltf. v	
9-17-73	Minute Order: Hearing on damages stricken from docket of 9-18-73; parties directed to make all discovery within 2 weeks of this date. (AEB-J)h	
9-28-73	Notice of taking oral deposition, filed by Pltf., filed. r	
9-28-73	Appl for ext of time to complete discovery, filed by Pltf. r <i>copy w/ order to judge</i>	
10-2-73	Order granting pltf. to 10-15-73 to complete discovery, filed. (AEB-J)g <i>hand</i>	
10-5-73	Response to plaintiff's request for production of documents under Rule 14, filed. ds	
10-18-73	Motion to Add Party Deft., filed. v <i>by T</i>	
10-18-73	Ordered by the Court that Defendant is granted 10 days from this date to respond to Plaintiff's Motion to Add Party Deft. (AEB-J)v <i>110 order. it will be considered.</i>	
6-26-74	Order, filed, vacating prior order of ct.; sustaining motion of def. to vacate order heretofore entered on 8/14/73, & entering new order correcting reflecting action of ct. (AEB-J)rm <i>Copies made.</i>	
6-26-74	Order, filed, granting motion of pltf. for default judg. against def. Nelson Auction as to issue of def.'s liability to pltf. for conversion of aforesaid '68 auto-car truck tractor in which pltf. had valid security int.; further ordered that caption of case be amended to substitute "The E.M.S. Agency, Inc., formerly Nelson Auction Service, Inc., a corporation," as def. in lieu of Nelson Auction Service, Inc. (AEB-J)rm <i>Copies made.</i>	
7-2-74	Order, filed, adding Nelson International, Inc. as party def., and granting pltf. 15 days from this date to file amended complaint. (AEB-J)rm	
7-2-74	Amended complaint, filed. Summons issued. rm	
7-2-74	Interrogatories propounded by pltf. to def. Nelson Intl., filed. rm	
7-22-74	Marshal's service on summons, complaint & Interrogs., ret. & filed: served Nelson International, Inc. 7-9-74. (USM \$8.00)g	
7-29-74	Application & Order extending time to plead or answer Amended Compl. for 15 days from this date. (JCS-Clk)k <i>small with copy atty</i>	
8-13-74	Answer of def. Nelson International, Inc. to amended compl., filed.k	
8-22-74	Deft's Answers to Interrogatories, filed. lm	
9-4-74	MO: Parties are directed to hold a pre trial conference on or before 10-16-74 & file a PT order on or before 10-23-74. (AEB-J)k copies sent by certified mail	
10-15-74	Motion for Partial Summary Judgment, filed. b	
10-15-74	Brief in Support of Motion for Partial Summary judgment, filed. b	
10-15-74	MO: It is Ordered by the Court that Deft. is granted 10 days from this date to respond to Pltf's Motion for Partial Summary Judgment. (AEB-J)b	
10-22-74	APPLICATION <sup>of pltf.</sup> for Ext. of Time to File PT Order until 10-30-74, filed.jj 0 to J	

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DATE	PROCEEDINGS	Date Order or Judgment Noted
10-22-74	Order, filed, granting parties until 10-30-74 to file pre-trial order. (JCS-Clk)g	
10-25-74	Appl. of deft. Nelson Internat'l for time til 11-15-74 to (a) file response to Motion for Partial S/J, (b) to file Mot. for S/J, (c) to file amendment of deft's ans. to pltf's amended compl., & (d) to determine if 3rd party action against Security Natl. Bank of Enid is to file Mot. to make such bank 3rd party deft. & for authority to issue 3rd party compl. & issue summons, filed.k <sup>py</sup> to mC	indicated,
11-7-74	ORDER, filed, granting deft. to 11-15-74 to file response to Motion for Partial S/J, to file Mot. for S/J and to file amendment to deft's ans. to pltf's amended compl. and briefs in support thereof; and to file a Motion to make Security National Bank of Enid a 3rd pty deft, with proposed 3rd pty complaint. Time for submitting proposed pre-trial order to the Court extended thru 11-25-74. lm cpies mld.	
11-15-74	APPLICATION of deft for ext. time until and including 12-6-74 to file response to pltf's motion for partial summary judgment and a brief in support of said response; to file a motion for summary judgment against pltf on the ground that pltf's claim is barred by applicable Okla. Statute of Limitations; to file an amendment to deft's ans. to pltf's amended complaint to set forth as additional affirmative defenses the existence of a security interest held by Security National Bank of Enid prior and superior to pltf's asserted lien; and to determine if a third party action may be instituted against Security National Bank of Enid, to file a motion to make such bank a third pty. deft. and for authority to issue third pty complaint and summons, and to file third pty complaint and issued summons, filed. lm ota g	
11-19-74	Order, filed, granting deft. Nelson International, Inc. until 12-6-74 to file response to pltf's mot. for S/Judg. with supporting brief; to file mot. for S/Judg. against pltf, with brief; file an amendment to deft's answer to amended complaint, and to file mot. to make Security National Bank of Enid a third party deft, with proposed third party complaint, and ext. time to submit pre-trial order to 12-16-74. (AEB-J)g	
12-6-74	Response of Deft. Nelson Intl., Inc. to Mtn. for S/J, filed.jj	
12-6-74	Application of deft. Nelson International, for extension of time until 12-16-74 to file Mtn. for S/J & Brief, to amend Ans. and to file Mtn. to add Security Natl. Bank of Enid as 3rd pty deft. ALSO request for 10 days extension from 12-16 to file PT Order, filed. jj O to J	
12-9-74	Order, filed, granting deft. Nelson International until 12-16-74 to file mot. for S/Judg. with supporting brief; to file an amendment to deft's answer to amended complaint, to set forth additional affirmative defenses and to file mot. to make Security Nat'l. Bank of Enid a third party defendant, with proposed 3rd pty. complaint, and until 12-26-74 to submit proposed pretrial order. (AEB-J)g mtd	
12-16-74	Appl. of Deft. Nelson International, Inc., for extension of time for three different purposes, filed. v (o)	

DATE	PROCEEDINGS	Date Order or Judgment Noted
12-17-74	Order, filed, that deft. is granted to and including 12-23-74 to file Mtn. for S/J and Brief, an Amend. to deft's Ans. to pltf's Amend. Complaint and set forth addtl. defenses, and to file Mtn. to make Security Natl. Bank of Enid a 3rd pty deft w/proposed 3red pty. complaint and ORDERED that time to file PT Order be extended to and including 1-2-75 (AEB-J)jj copies mailed	
12-23-74	Application of deft. Nelson International, Inc. to make Security Natl. Bank of Enid an additional or third party deft., filed. hm	
12-23-74	Amendment to answer to amended complaint, filed. hm	
12-23-74	Motion for S/J of deft. Nelson International, Inc., filed. hm	
12-23-74	Brief in support of motion for S/J, filed. hm	
12-23-74	Ordered that pltf. file response brief to the motion for S/J of deft. Nelson International, Inc. (AEB-J)	
12-24-74	Order, filed, that deft. Nelson Internat'l, Inc. is granted til 1-6-75 to file mot. to make Security Natl' Bank of Enid a 3rd party deft, w/ proposed 3rd party compl., & that PT order is due 1-16-75. (AEB-J)k cps mld	
1-3-75	RESPONSE of pltf., filed. lm	
1-6-75	Motion of deft. Nelson International, Inc. to make Security National Bank of Enid a third-party defendant, filed. g	
1-6-75	Brief in support of mot. of Nelson International Inc. to make Security Bank of Enid a third-party defendant, filed. g	
1-6-75	MO. Ordered by Court that pltf. is granted 10 days to respond to deft's mot. to bring in Security Bk. of Enid as 3rd pty deft. (AEB-J)g	
1-16-75	APPLICATION of deft. Nelson International, Inc. for Order extending time for filing pre-trial Order until 10 days after determination of pending motions, filed. lm (o to J)	
1-21-75	ORDER, filed, granting deft. Nelson International, Inc., extension of time for filing PT Order until 10 days after determination of pending motions (AEB-J) lm cps mld.	
1-21-75	Pltf's RESPONSE to Motion to Bring in Third Party deft., filed. lm	
3-19-75	MO: Case is referred to Mag. Bradford for hrg. & rec. on pending mots. (AEB-J)k Case called for hearing on Pltf motion for S/J against Nelson Internat'l, Inc., & on deft Nelson 's motion for S/J; & motion to bring in Third party deft. Parties present. Deft. Nelson's motion sustained & motion to bring in third party deft stricken as moot. Deft. to prepare order & Finding & Recommendations in 5 days. (MLB-Mag) b	
4-16-75		
4-28-75	Findings & Recommendations of Magistrate, filed. (MLB-Mag) b cps mld	
5-2-75	Pltf's objections to F/F & Recommendations of Magistrate, filed. hm	
5-2-75	Brief in support of Pltf's obj. to F/F & Recommendations of Magistrate, filed. hm	

(over)

DATE	PROCEEDINGS	Date Order or Judgment Noted
5-2-75	Ordered by the Court that the defts. file a responsive brief to the objections to F/F & Recommendations of Mag. within 10 days. (AEB-J)hm	
5-12-75	Appl. of Deft. Nelson International, Inc., for ext. of time to file brief to the objections to F&R of Magistrate filed by Pltf., filed. v (o)	
5-20-75	Response of Nelson International, Inc. to pltf's objections to F&R of Magistrate, with supporting brief, filed. g	
5-22-75	Order, filed, granting Nelson International, Inc. until 5-19-75 to file responsive brief. (AEB-J)g	
3-8-76	Order, filed & entered, that Mot. for S/J filed by Deft. Nelson International, Inc. be and the same is hereby sustained. (AEB-J)k cps mld	
3-8-76	Judgment, filed & entered, in favor of Nelson International, Inc., and against pltf. The First National Bank & Trust Co. of Tulsa. (AEB-J)k cps mld	
4-7	Notice of appeal by pltf. from judg. of 3/8/76, filed.rm(copy to counsel and USCA)	
4-8	Bond for costs on appeal (\$250 surety), filed. rm	
4-28	"appeal record (original-One Volume) sent to USCA." ph	
7-2	Appl. of pltf. to suppl. record on appeal, filed. rm o	
7-9	Order, filed, that Clerk of this Ct. suppl. record on appeal by transmitting to 10th Circuit the brief in support of pltf. obj. to F&R of Magistrate. (AEB-J)rm-	
7-9	Suppl. appeal Vol. 1 transmitted to USCA. rm	
9-6-77	Mandate and opinion of 10th Circuit, filed and spread of record, affirming court's judg. of 3/8/76. rm	
9-6-77	Original appeal record (1 vol. + suppl. vol) recd. from USCA. rm	